# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**SPECIAL CIVIL APPLICATION No. 14225 of 2004**
**With**
**SPECIAL CIVIL APPLICATION No. 14577 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 14704 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 14705 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 14709 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 8983 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 17603 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 17634 of 2005**
**With**
**SPECIAL CIVIL APPLICATION No. 17694 of 2005**
**To**
**SPECIAL CIVIL APPLICATION No. 17742 of 2005**

**For Approval and Signature:**
**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**NARPSTSINH M SOLANKI - Petitioner(s)**

**Versus**

**RAHULBHAI NANUBHAI AMIN CHAIRMAN JYOTI LTD & 1 - Respondent(s)**

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**Appearance :**

MR RD RAVAL & MR AK CLERK for Petitioners – WORKMENT OF JYOTI LTD
RULE SERVED BY DS for Respondent(s) : 1 - 2.
MR KARTIK THAKAR FOR M/S TRIVEDI & GUPTA for Respondent(s) : 2,

SHRI KAUSHIK B. PUJARA AMICUS CRUIE,

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 22/09/2005**

**ORAL JUDGMENT**

1. Special Civil Application No.14225 of 2004 with Special Civil Application Nos.14577 of 2005 to 14704 of 2005 and Special Civil Application Nos.14705 to 14709 of 2005 are filed by the erstwhile employees of the respondents – Company i.e. Jyoti Limited, Vadodara through their learned advocate Shri R.D.Rawal. Whereas, Special Civil Application Nos.8983 of 2005 with Special Civil Application Nos.17603 of 2005 to 17634 of 2005 with Special Civil Application Nos.17694 of 2005 to 17742 of 2005 are filed by the erstwhile employees of the respondents company i.e. Jyoti Ltd. Company through their learned advocate Shri A.K.Clerk.

2. Heard Shri R.D.Rawal and Shri A.K.Clerk, learned advocates appearing on behalf of the respective petitioners and Shri Kartik Thakar, learned advocate appearing on behalf of M/s Trivedi and Gupta appearing on behalf of the respondents.

3. All these petitioners were serving with the respondent No.2 – Jyoti Ltd. Due to the financial constraints and adverse financial difficulties, the respondent No.2 company offered the scheme for voluntary retirement to the employees of Jyoti Limited and in all 556 employees opted for Voluntary Retirement Scheme. Under the voluntary retirement scheme, the company was required to pay the retirement dues and / or amounts which the concerned employees were entitled under the voluntary retirement scheme. It appears that initially some amount was paid but not a single farthing was paid to the petitioners / employees of the respondent Company who had accepted the voluntary retirement scheme since 2001 and therefore, the petitioners have preferred the present Special Civil Applications for an appropriate writ, order and / or directions directing the respondents to pay the entire outstanding amount under the Voluntary Retirement Scheme to the concerned workmen who are not paid installments since August, 2001 and the said amount be directed to be paid with the bank interest, penal

interest at the rate of 18 % per annum till the date of payment. Special Civil Application Nos14225 of 2004 is filed by the petitioner Union i.e. Jyoti Karmachari Mandal through its President Narpatsinh M. Solanki and the rest are one page petitions filed by the respective workmen / employees who are the members of the said Union and who are beneficiary of the Voluntary Retirement Scheme and not paid their voluntary retirement installments since August, 2001.

4. This Court has passed various orders and directed the respondents to deposit an amount of Rs.20.00 lakhs ( Rupees Twenty Lakhs only ) with the petitioner union which the respondents have paid to the petitioner union and the said amount of Rs.20.00 Lakhs is lying with the petitioner Union for the purpose of disbursement amongst the petitioners and the other workers who had accepted voluntary retirement Scheme. This Court passed further order on 11.5.2005 on the basis of the statement made by the learned counsel appearing on behalf of the respondents that per workman who has taken voluntary retirement shall be paid Rs.2000/- per month from

June, 2005 onwards and it is reported that monthly installment of Rs.2,000/- is being paid to the concerned workmen who have opted for voluntary retirement including all the petitioners.

5. When the matter is heard finally this this Court, by and large there is consensus between the parties to pay the amount of voluntary retirement installments due and payable to the concerned workmen who had accepted voluntary retirement and it is agreed between the parties that instead of Rs.2,000/- per months, the concerned workmen be paid voluntary retirement installments by monthly installment of Rs.3,000/- commencing from 1st October, 2005 and Rs.20.00 Lakh (Rupees Twenty Lakhs only ) already lying with the petitioner Union be disbursed amongst the petitioners and concerned workmen who had accepted the voluntary retirement. With regard to the interest on delayed payment, there is also consensus between the parties that the amount of interest be paid by equal installments to be completed on or before September, 2006.

6. Shri Kartik Thakar,learned advocate appearing on behalf of the respondents has submitted that list of 556 workmen who had accepted voluntary retirement and who are required to be paid installments towards the voluntary retirement dues including the petitioners. It is submitted that so far the workmen whose names are enlisted upto Serial NO.30 they are already paid the entire dues which they were required to be paid under the Voluntary Retirement Scheme. So far as the workmen who are at Sr.No.31 to 90 are concerned, their dues will be cleared by October, 2005 and the workmen whose names mentioned at Sr.No.91 to 556, they will be paid their dues by monthly installments of Rs.3,000/- commencing from October, 2005. Along with the statement, Shri Thakar, learned advocate has also submitted statement of calculation showing how the amount will be paid and it appears that the entire dues will be cleared in 34 monthly equal installments. A copy of the said statement is directed to taken on record and the same will be a part of the present order. It is reported that the copy of the said statement is already given to the learned advocates appearing on behalf of the

respective petitioners and there is no dispute whatsoever with regard to said calculation etc. It is also agreed between the parties that the aforesaid amount of Rs.20.00 Lakh lying with the petitioner Union be disbursed equally amongst the workmen whose names have been listed at Sr.No.91 to 556 and it is also agreed that the petitioner Union will return the said amount of Rs.20.00 Lakhs to the respondent No.2 company for disbursement and the same will be disbursed amongst them i.e amongst the workmen whose names have been mentioned at Sr.NO.91 to 556 along with the installments for Rs.3,000/- of October, 2005 and the said disbursement would be over and above the installment for the month of October, 2005 i.e. Rs.3,000/- is to be paid to the said workmen, meaning thereby, the concerned workmen will be paid Rs.3,000/- plus their share from the aforesaid amount of Rs.20.00 Lakh which approximately comes to Rs.4301/-, so the respective each workman will be getting installments for October, 2005 for an amount of Rs.7301/-.

7. It is also submitted on behalf of the respondents that so far as the interest on the delayed payment is concerned, the workmen whose names have been mentioned at Sr.No.1 to 90, they would be paid the same on or before October, 2005 and so far as the interest for the workmen at Sr.No.91 to 556 is concerned, the same comes Rs.53,56,057.98 ps and it is also agreed between the parties that the said amount will be paid by the respondents in equal monthly installments commencing from October, 2005 to be cleared on or before September, 2006.

8. Considering the above submissions and the consensus between the parties, the following order is passed.

[I] The respondents are directed to pay the voluntary retirement installments due and payable to the workmen whose names have been mentioned at Sr.No.91 to 556 as per the statement annexed by monthly installment of Rs.3,000/- per month. The respondents are directed to pay the aforesaid amount as per the Schedule mentioned in the statement

submitted by the learned advocate appearing on behalf of the respondents which is directed to be taken on record and which is annexed herewith.

[II] The petitioner Union of Special Civil Application No.14225 of 2004 is directed to return the amount of Rs.20.00 lakhs to the respondents which is lying with them pursuant to the orders passed by this Court immediately and on receipt of the same, the respondents are directed to disburse the said amount of Rs.20.00 Lakh equally amongst the workmen whose names have been mentioned at Sr.No.91 to 556 along with the installment for October, 2005 and the said payment would be over and above the monthly installment of Rs.3,000/- which is directed to be paid to the concerned workmen by the respondent No.1 as per Clause-[I] above. In other words, the concerned workmen whose names have been mentioned between Serial No.91 to 556 would be getting Rs.3,000/- plus Rs.4301/- totaling to Rs.7301/- in the month of October, 2005.

[III] So far as the amount of interest on delayed payment of the workmen, whose names have been mentioned at Sr.No.91 to 556, which comes to Rs.53,56,057.98 ps, the respondents are directed to pay the said amount to the said workmen by each monthly installments commencing from October, 2005 to be cleared on or before September, 2006. It goes without saying that the aforesaid amount of interest to be paid by equal monthly installments commencing from October, 2005 to be cleared before September, 2006 would be over and above the payment / installments to be paid as stated hereinabove.

9. Thus, as per the above order, the workmen whose names have been mentioned at Sr.No.91 to 556 would be paid the entire amount towards the principal amount by 34 installments and the interest amount on delayed payment would be paid within 12 installments.

[IV] The respondents are directed to file an undertaking to be filed by the Managing Director of the respondent No.2 company to the effect that they will make the aforesaid payments as per the above

directions and order and that they will not make any default in future and such an undertaking should be supported by Resolution of the respondent No.2 company to be filed within two weeks from today. It shall also be incorporated in such undertaking that in case of default, the same can be recovered from the personal properties of the Managing Director and Directors whose names are required to be disclosed in the undertaking and the said undertaking should be affirmed by the Managing Director and / or Directors concerned.

10. All the petitions of the group stand allowed and disposed of in terms of the aforesaid order.Parties are directed to abide by the terms of the order aforesaid.

11. Before parting with the judgment, this Court appreciates the services rendered by Shri Kaushik B. Pujara, learned advocate for his valuable assistance as amicus curie.

12. Rule is made absolute to the aforesaid extent in each of the matter, however, there will be no order as to costs.

Direct Service is permitted.

[ M.R.Shah, J. ]

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